

INFORMATION COLLECTION REQUEST (ICR)
OMB-83 SUPPORTING STATEMENT
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF AIR & RADIATION

A. JUSTIFICATION

1. Identification of the Information Collection

a. Title: Reformulated Gasoline Commingling Provisions

EPA Number: 2228.02

b. Short characterization:

With this information collection request (ICR), the Office of Air and Radiation (OAR) is seeking permission to accept notifications from gasoline retailers and wholesale purchaser-consumers related to commingling of ethanol blended and non-ethanol-blended reformulated gasoline (RFG) under §1513 of the Energy Policy Act of 2005 (EPAAct) and 40 CFR § 80.78(a)(8)(ii)(B), and to provide for a compliance option whereby a retailer or wholesale purchaser-consumer may demonstrate compliance via test results under § 80.78(a)(8)(iii)(A). These provisions are designed to grant compliance flexibility. Parties were subject to optional recordkeeping and reporting on June 1, 2006. We are requesting that the Office of Management and Budget (OMB) approve the renewal of this ICR and that it remain in effect 3 years from the approval date. A more detailed discussion of EPAAct § 513 and 40 CFR §§ 80.78(a)(8)(ii)(B) and (iii)(A) follows.

Section 1513 of the EPAAct addresses the combining of ethanol-blended RFG with non-ethanol-blended RFG. This provision amended the Clean Air Act (CAA) to add a new § 211(s) providing retail outlets two ten-day opportunities during a single VOC-control season to blend batches of ethanol-blended and non-ethanol-blended RFG. Under this new section, retail outlets are allowed to sell non-ethanol-blended RFG which has been combined with ethanol blended RFG under certain conditions:

- o First, each batch of gasoline to be blended must have been “individually certified as in compliance with subsections (h) and (k) [of CAA § 211] prior to being blended.”
- o Second, the retailer must notify EPA prior to combining the gasolines and identify the exact location of the retail outlet and specific tank in which the gasoline is to be combined. [The notifications create a new information collection burden and are estimated in this information collection request.]

- o Third, the retailer must retain, and, upon request by EPA, make available for inspection, certifications accounting for all gasoline at the retail outlet. [This information is normally kept in the normal course of business and we believe retaining it is a customary business practice (CBP).]
- o Fourth, retailers are prohibited from combining VOC-controlled gasoline with non-VOC-controlled gasoline between June 1 and September 15.

To provide assurance that gasoline is in compliance with the downstream VOC standard after the ten-day period, EPA issued a direct final rule that amended 40 CFR Part 80 to address commingling (71 FR 8973, February 22, 2006). There are two options available for retailers and wholesale purchaser-consumers. Under the first option, the retailer may add both ethanol-blended RFG and non-ethanol-blended RFG to the same tank an unlimited number of times during the ten-day period, but must test the gasoline in the tank at the end of the ten-day period to make sure that the RFG is in compliance with the VOC standard. Under the second option, the retailer must draw the tank down as much as practicable at the start of the ten-day period, before RFG of another type is added to the tank, and add only RFG of one type to the tank during the ten-day period. Because there is a recordkeeping requirement associated with retail station test results under the first option, we have calculated an estimated burden for that activity. We do not anticipate that many retail stations (5% or fewer) will choose to test under option one.

Retailers are also limited in the frequency with which batches of non-ethanol RFG may be combined with ethanol RFG. Retailers may combine such batches of RFG a maximum of two periods between May 1 and September 15. Each period may be no more than ten consecutive calendar days.

2. Need For, and Use of, the Collection

a. Authority for the Collection

Sections 114 and 208 of the CAA, 42 U.S.C. §§ 7414 and 7542, authorize EPA to require recordkeeping and reporting regarding enforcement of the provisions of Title II of the CAA. The relevant regulations are in 40 CFR Part 80, Regulation of Fuels and Fuel Additives. See §§ 80.78(a)(8)(ii)(B) and (iii)(A).

b. Practical Utility/Uses of the Data

The recordkeeping and reporting requirements of this regulation will allow EPA to monitor compliance with the commingling requirements of CAA § 211(s), as added by § 1531 of the EPA Act.

3. Non-duplication, Consultation, and other Collection Criteria

a. Non-duplication

Efforts have been made to eliminate duplication in this information collection. Where possible, information requirements from various organizations within the Agency have been combined to minimize the submittal of duplicate information in different formats. The information in this collection will not be available from another source.

b. Public Notice

On September 28, 2006, we published a Federal Register notice announcing our intent to submit an ICR to OMB and established a docket at www.regulations.gov under the following number: EPA-HQ-OAR-2006-0745. (See 71 FR 56969.) The comment period remained open until November 27, 2006 and no comments were received. We are now publishing a Federal Register notice announcing actual submission of the ICR to OMB and we will again accept comments on the ICR. The ICR burden estimates and supporting statement being submitted to OMB are identical to those in the first Federal Register notice, with the exception of this paragraph.

c. Consultations

We have drawn upon our experience with similar fuels regulations and have utilized information available from *National Petroleum News* to develop these estimates.

d. Effects of Less Frequent Data Collection

We believe that the largest number of reports will be collected under the notification option in 2006 and anticipate a drop-off in responses after the first year. We very likely have over-estimated the burden because we have used a conservative approach that assumes all parties may respond twice annually. With regard to the testing option and retention of those records, we anticipate that 5% or fewer of respondents will be affected annually. Less frequent collection of data would make it impossible to carry out the provisions of the CAA and EPAct.

e. General Guidelines

This rule does not exceed any of the OMB guidelines.

f. Confidentiality

We inform respondents that they may assert claims of business confidentiality (CBI) for any or all of the information they submit. We do not believe that most respondents would characterize the information they submit to us under this information collection as CBI. Because of this, we are permitting reporting via e-mail. However, any information claimed as confidential will be treated in accordance with 40 CFR Part 2 and established Agency procedures. Information that is received without a claim of

confidentiality may be made available to the public without further notice to the submitter under 40 CFR § 2.203.

g. Sensitive Information

This information collection does not require submission of any sensitive information.

4. The Respondents and the Information Requested

a. Respondents/SIC Codes

The respondents to this information collection are Retailers (including wholesale purchaser-consumers). Recordkeeping and reporting may be required by the following industries, *with 2002 NAICS Code indicated in parentheses*:

- Gasoline stations (447)
- Gasoline stations with convenience stores (447110)
- Gasoline stations without convenience stores (447190)

b. Information Requested

A) Reporting: Respondents who use the notification option will be sending a very simple report that could take the form of a short e-mail or similar communication. No form is to be developed, although we may consider developing a simple web based reporting interface for submission of the information, if that option is desired by the respondent community.

B) Recordkeeping: Under the testing option, respondents must retain underlying records related to results of any tests they perform for five years. We anticipate that 5% or fewer respondents will choose the testing option. The burden of retaining the testing results record is small.

5. The Information Collected, Agency Activities, Collection Methodology, and Information Management

a. Agency Activities

- All notifications will be reviewed by EPA. (Test results will be shown to EPA field compliance and enforcement personnel upon request.)
- Notifications will be stored by EPA.

b. Collection Methodology and Management

Data will be collected by industry and reported to EPA in the form of a simple e-mail or record that identifies the service station and its address and identifies the tank

where commingling will occur. As mentioned above, we do not anticipate that this information will come in under a CBI claim; however, that is a possibility and we will treat all such information in accordance with 40 CFR Part 2 and established Agency procedures for handling CBI. Information claimed as CBI will be stored in appropriately controlled areas.

c. Small Entity Flexibility

This collection will not adversely affect small entities. The whole purpose of the commingling provision of the EPO Act is to provide flexibility. The actual estimated annual burden for a typical respondent who submits up to two notifications per year is estimated to be \$35.50 (0.50 hours) annually.

d. Collection Schedule

We anticipate that notifications will be submitted no more than twice per year and that the number of notifications we receive will drop off significantly after 2006.

6. Estimating the Burden and Cost of Collection

(a)/(b) Estimating the Respondent Burden and Cost

Three labor categories are involved: managerial (includes legal and professional review), technical, and clerical. The estimates use the Bureau of Labor Statistics figures from "Employer Costs for Employee Compensation - Table 12 - Private Industry, Manufacturing, and Non-Manufacturing Industries by Occupational Group" (December 2003), with a 3% inflation factor applied to bring the values to 2006. Using this method, the following wages and benefits apply by category:

Wages and Benefits

Managerial	\$53.87 per hour
Technical	\$35.29 per hour
Clerical	\$24.56 per hour

Doubling for company overhead beyond wages and benefits, and for convenience, rounding up to the dollar, gives the following rates for this ICR:

Total Employer Cost

Managerial	\$108 per hour
Technical	\$71 per hour
Clerical	\$49 per hour

The labor mix for the activities estimated will be about the same for each and is consistent with prior ICRs in this series. It is assumed that for each hour of activity the

mix will be about 0.1 hour managerial, 0.7 hour technical, and 0.2 hour clerical. This gives an average labor cost of \$71 per hour, which will be used in this ICR.

There are no purchased services or start-up/maintenance costs associated with this ICR.

**Respondent Burden Hours & Costs
(Including Capital & Maintenance - O&M)**

Collection Activity	Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Hours per Response & Cost per Response	Total Hours & Total Cost @ \$71/hour	Total O&M
Prepare and Submit Notification	54,000	2	108,000	0.25 ----- \$17.75	27,000 hours ----- \$1,917,000	0
Maintain Test Results Documents (assumes 5% of respondents test)	2,700	1	2,700	0.25 ----- \$17.75	675 hours ----- \$47,925	0
Total	56,700 respondents	-----	110,700 responses	-----	27,675 hours ----- \$1,964,925	0

c. Estimating the Agency Burden and Cost

No response is required to notifications unless a potential violation is noted. Responses will be routinely reviewed and filed as part of our existing reporting system for fuels and fuel additives. This activity will present no significant, quantifiable burden to the Agency. However, we may develop a web based format for reporting for the convenience of respondents and estimate such development would cost the Agency \$50,000.

d. Estimating the Respondent Universe

We consulted the *National Petroleum News* to assist us in estimating the total number of retail stations. Since that publication contained a nationwide estimate, we assumed 30% of that number for stations in RFG areas (since 30% of the gasoline market nationwide is RFG). Although imperfect, we believe this is a reasonable estimate, and have applied similar logic in estimating the number of wholesale purchaser-consumers. We have estimated that there are 54,000 respondents.¹

e. Bottom Line Burden Hours and Costs

From the Table on page 7 we estimate the following:

TOTAL NO. OF REPORTS: 110,700
TOTAL BURDEN HOURS: 27,675
TOTAL LABOR COSTS: \$ 1,964,925
TOTAL NON-LABOR COSTS: -0-

f. Reason for Change in Burden

There is no change in burden in the total estimated burden approved under the previous ICR.

g. Burden Statement

¹ ² The *National Petroleum News* (Market Facts - July 2005) counts 168,987 retail stations in 2005. This number was multiplied by 0.30 to yield 50,696 and rounded up to 51,000 for ease of use. In our ICR for diesel fuel, "Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years; for Tax-exempt (Dyed) Highway Diesel Fuel; and for Nonroad Locomotive and Marine Diesel Fuel" (EPA ICR 1718.06), we estimated that there were 10,000 wholesale purchaser-consumer facilities handling petroleum product. For purposes of this ICR, we are multiplying this number by 0.30 to yield 3,000. Adding our estimate of the number of retailers (51,000) and the number of wholesale purchaser-consumers (3,000) yields 54,000 respondents. We believe this number to be on the high side in estimating actual respondents, but it does provide a reasonable benchmark.

The average respondent burden in hours *per response* for this ICR is estimated at 0.25 hours.² Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review the instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OAR-2006-0745, which is available for online viewing at www.regulations.gov, or in person viewing at the Office of Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Office of Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2006-0745 and OMB Control Number 2060-0587 in any correspondence.

² The average respondent burden is the total number of hours divided by the total number of reports from the Table, rounded up for simplicity.